

E-015/M-92-1219 ORDER APPROVING COMPETITIVE RATE SCHEDULE AND
COMPETITIVE RATE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
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Chair
Commissioner
Commissioner
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Commissioner

In the Matter of the Petition of
Minnesota Power for Approval of
a Competitive Rate Schedule for
Large Light and Power Service
Customers and a Competitive Rate
for the Fond du Lac Development
Corporation

ISSUE DATE: January 14, 1993

DOCKET NO. E-015/M-92-1219

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SCHEDULE AND COMPETITIVE RATE

PROCEDURAL HISTORY

On October 19, 1992, Minnesota Power (MP) filed a petition for approval of a Competitive Rate Schedule for its Large Light and Power Service (LLPS) customer class and a Competitive Rate for the Fond du Lac Development Corporation.

On October 27, 1992, the Commission issued a Request for Comments.

On November 19, 1992, the Minnesota Department of Public Service (the Department) filed comments recommending approval of the Competitive Rate Schedule for the LLPS customer class on the condition that two changes be made to make the tariff language conform to the Competitive Rates statute. The Department also recommended approval of MP's Competitive Rate contract with the Fond du Lac Development Corporation.

No party filed comments on the Department's recommendations.

On January 7, 1993, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

Large Light and Power Class Rate Schedule

On November 1, 1991, Fond du Lac Corporation requested electric service proposals from interested parties to serve its entertainment center near Carlton, Minnesota. Only MP and Head of the Lake Cooperative (the Cooperative) submitted proposals.

MP's proposal was to provide service at its standard tariffed rate for its Large Light and Power class. The Cooperative's was the lower-cost proposal. In response to the Cooperative's proposal, MP developed a competitive rate schedule for its Large Light and Power class and a competitive rate for Fond du Lac and requested Commission approval.

Under the Competitive Rate Statute, the Commission must approve, modify or reject a request to establish a competitive rate schedule within 90 days. Minn. Stat. § 216B.162, subd.7 (1990). The statute requires the utility's filing to include statements of fact supporting the four findings that the Commission must make in order to approve the proposed competitive rate schedule:

1. that the proposed rate meets the seven terms and conditions set forth in Minn. Stat. § 216B.162, subd. 4¹;
2. that the consumer can obtain its energy requirements from a energy supplier not rate-regulated by the Commission under Minn. Stat. § 216B.16;
3. that the customer is not likely to take service from the electric utility seeking to offer the competitive rate if the customer is charged the utility's standard tariffed rate; and
4. that it is in the best interest of all other customers to offer the competitive rate to the customer subject to effective competition. Minn. Stat. § 216B.162, subd. 7 (1990).

The Commission has reviewed the Company's filing and finds that with two revisions, the statutory requirements are met. The two revisions are as follows:

1. To meet the qualification of Minn. Stat. § 216B.162, subd. 4 (2), the Commission will require the Company to amend a phrase in the "APPLICATION" section of its proposed tariff as follows: "to the electric service requirements of a customer requiring service for no less than 2,000 kW and no more than 10,000 kW of connected load...." (added language underlined); and

¹ The statute authorizes the Commission to waive any of the seven terms and conditions if to do so would be in the public interest. Minn. Stat. § 216B. 162, subd. 7 (1) (1990). If a utility would like the Commission to grant such a waiver, it should include justification for the waiver in its filing.

2. To clarify the treatment of interim rates consistent with Minn. Stat. § 216B.162, subd. 6 (b) (1990), the Commission will require the Company to add the following sentence to part (8) of the "TERMS AND CONDITIONS" section of its tariff:

While an interim competitive rate is in effect, the difference between rates under the competitive rate and rates under the standard tariff for that class are not subject to recovery or refund.

The issue of whether MP is subject to effective competition from the Cooperative, as required by Minn. Stat. § 216B.162, subd. 1 (b), is interesting and warrants discussion. In this case, the pivotal question is whether Fond du Lac has the "ability to obtain" its energy requirements from the Cooperative, within the meaning of Minn. Stat. § 216B.162, subd. 1 (b) (2) (1990). Since Fond du Lac is outside the service territory of the Cooperative, the Cooperative may not provide electric service to Fond du Lac without the Commission's approval. Having reviewed the factors listed in Minn. Stat. § 216B.42 (1990) and applied them to the facts in this case, however, the Commission finds that it is highly likely that the Cooperative or Fond du Lac could have obtained permission for the Cooperative to serve Fond du Lac by petitioning the Commission pursuant to that statute. In these circumstances, the Commission will deem the Cooperative's service "available" to Fond du Lac within the meaning of Minn. Stat. § 216B.162, subd. 1 (b) (2) (1990).

With the two revisions mentioned previously, then, the Commission determines 1) that the proposed rate schedule meets the seven terms and conditions set forth in Minn. Stat. § 216B.162, subd. 4, 2) that the consumer can obtain its energy requirements from a energy supplier not rate-regulated by the Commission under Minn. Stat. § 216B.16, 3) that the customer is not likely to take service from the electric utility seeking to offer the competitive rate if the customer is charged the utility's standard tariffed rate, and 4) that it is in the best interest of all other customers to offer the competitive rate to the customer subject to effective competition. Minn. Stat. § 216B.162, subd. 7 (1990). Accordingly, the Commission will approve it as modified.

As provided by Minn. Stat. § 216B.162, subd. 7 (1990), the Commission's Order modifying the competitive rate is subject to the approval of the electric utility and the customer. Each party has ten (10) days in which to reject the proposed modification. If no party objects to the proposed modification, the Commission's Order becomes final.

Competitive Rate for Fond du Lac Corporation

Based on its review of the proposed Electric Service Agreement between Fond du Lac and MP for statutory compliance, the Commission finds that Fond du Lac is subject to effective competition between MP and the Cooperative within the meaning of Minn. Stat. § 216B.162 (1990), that the proposed rates allow MP to recover its incremental cost of serving Fond du Lac, and the proposed competitive rate is not lower than the cost to Fond du Lac of receiving electric service from the lowest-cost energy supplier, the Cooperative.

Based on these findings, the Commission will approve MP's proposed competitive rate for the Fond du Lac Corporation.

ORDER

1. Subject to the two revisions stated in this Order at page 2, Minnesota Power's proposed Competitive Rate Schedule for Large Light and Power Service Customers is approved.
2. Minnesota Power's proposed Electric Service Agreement between Fond du Lac and MP, including the competitive rate for the Fond du Lac Corporation, is approved, effective upon filing by MP of the revised Competitive Rate Schedule and the Electric Service Agreement between Fond du Lac and MP pursuant to Ordering Paragraph 3.
3. Within 30 days of this Order, MP shall submit its Competitive Rate Schedule as modified by this Order and the Electric Service Agreement between Fond du Lac and MP.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

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